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BY ECF FILING

Hon. Dale E. Ho, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Application **GRANTED**. A So Ordered notice of dismissal will issue separately. Defendants The Better Choice Lenders, Inc. and Ezzat (Tom) Ishak moved to dismiss the Complaint on December 29, 2023. In light of Plaintiff's amendment, that motion is **DENIED** as moot. The Clerk of Court is respectfully directed to close the motion at Dkt. No. 18.



Dale E. Ho
U.S. District Judge

Dated: January 23, 2024
New York, New York

Re: Eli Wilner & Co. Inc. v. Titanz LLC, S.D.N.Y. Case No 1:23-cv-11084

Dear Judge Ho:

This firm represents Defendants The Better Choice Lenders, Inc. and Ezzat (Tom) Ishak (together, "Moving Defendants"), who filed a motion to dismiss the original complaint asserting causes of action for civil violation of the Racketeering Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962 ("RICO") and RICO conspiracy. Dkt. No. 18. On January 2, 2024, the Court entered an Order (i) directing Plaintiffs to, by January 19, 2024, either file an amended complaint or opposition to the Moving Defendants' motion, and (ii) if Plaintiff does amend, for Moving Defendants to answer, file a new motion, or file a letter advising that they rely on the previously filed motion to dismiss. Dkt. No. 23.

Today, Plaintiffs filed their First Amended Complaint (Dkt. No. 27) ("FAC"), together with a redline comparison of changes from the original complaint (Dkt. No. 27) ("Redlines"). The Redlines show that Plaintiffs struck the names of each of the Moving Defendants from the caption and deleted any allegations against the Moving Defendants from the body of the Complaint. Plaintiffs' counsel confirmed to me in an email that they are dismissing Moving Defendants' without prejudice.

Accordingly, and given the stigmatizing effects that having an outstanding RICO claim could have against Moving Defendants, we respectfully request that the Court enter an order granting the motion to dismiss. We thank the Court for its attention to this matter.

Sincerely,

/s/ Jacob H. Nemon

Jacob H. Nemon

Cc: All Counsel of Record by ECF